

General Information Letter: Under the reciprocal agreement between Illinois and Iowa, a resident of Iowa is not subject to tax on employee compensation earned in Illinois, including taxable fringe benefits and reimbursements of employee expenses treated as wages for federal income tax purposes.

March 21, 2008

Dear:

This is in response to your letter dated March 14, 2008, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

An Illinois Department of Revenue customer service representative suggested that I write to you requesting an interpretation.

I am a resident of Iowa. My family resides there in a home that I own and maintain in a suburb of CITY1. I have an Iowa driver's license and voter registration. On January 21, 2007, my employer, the AMDINISTRATION, tasked me with a temporary duty assignment in Illinois to reorganize their CITY2 office. I commute weekly between my home in Iowa and my work assignment in CITY2.

My employer has provided me with reimbursement for my expenses. Although tax withholding on my salary reflects my Iowa residency and official place of employment, because of differing cost code assignments for AMDINISTRATION internal accounting purposes, the expense reimbursement was charged against the CITY2 facility and reported as Illinois income. Enclosed is a Form W-2 that reflects this. No state or federal income tax withholding occurred. It is my intent to file my Iowa Tax Form 1040, jointly with my wife, declaring all salaries and employer reimbursements as I have done in the past.

My question is whether I have a tax obligation with the State of Illinois. The customer service representative thought not, but deferred to you for a definitive answer.

Response

As a general rule, Section 302(a) of the Illinois Income Tax Act (35 ILCS 5/302) imposes Illinois income tax on employee compensation of a nonresident to the extent the compensation is allocable to Illinois under the facts and circumstances of the employment. However, Section 302(b) provides:

Reciprocal exemption. The Director may enter into an agreement with the taxing authorities of any state which imposes a tax on or measured by income to provide that compensation paid in such state to residents of this State shall be exempt from such tax; in such case, any compensation paid in this State to residents of such state shall not be allocated to this State.

In addition, Section 701(d) of the Illinois Income Tax Act (35 ILCS 5/701) provides that no withholding of Illinois income tax is required from employee compensation paid to a nonresident, if his or her state of residence has entered such a "reciprocal agreement" with Illinois.

The Illinois and Iowa have entered into a reciprocal agreement, as noted on page 1 of the instructions to Schedule NR, Nonresident and Part-year Resident Computation of Illinois Tax. Accordingly, your employer was correct in not withholding any Illinois income tax from your salary or the expense reimbursements. Also, as noted on page 1 of the Schedule NR instructions, an Iowa resident whose only income allocable to Illinois is employee compensation exempted from Illinois income tax by the reciprocal agreement has no obligation to file an Illinois income tax return. The instructions to the 2007 Schedule NR can be found at:

<http://tax.illinois.gov/TaxForms/IncM2007/Individual/IL-1040-NR-Instr.pdf>

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax